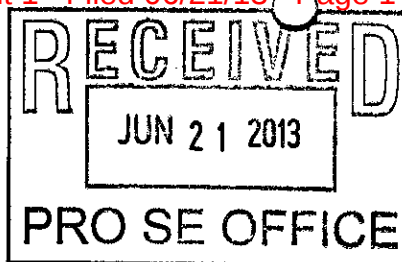


ORIGINAL

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK



COMPLAINT *Tury trail Demanded*

Albert L Spencer

NAME OF PLAINTIFF(S)

v.

CV 13-3611

AMON, CH.J.

BLOOM, M.J.

Servisair LLC

NAME OF DEFENDANT(S)

This action is brought for discrimination in employment pursuant to (check only those that apply):



Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (amended in 1972, 1978 and by the Civil Rights Act of 1991, Pub. L. No. 102-166) (race, color, gender, religion, national origin).

NOTE: In order to bring a suit in federal district court under Title VII, you must first obtain a right to sue letter from the Equal Employment Opportunity Commission.



Age Discrimination in Employment Act of 1967, as codified, 29 U.S.C. §§ 621 - 634 (amended in 1984, 1990, and by the Age Discrimination in Employment Amendments of 1986, Pub. L. No. 92-592, the Civil Rights Act of 1991, Pub. L. No. 102-166).

NOTE: In order to bring a suit in federal district court under the Age Discrimination in Employment Act, you must first file charges with the Equal Employment Opportunity Commission.

Americans with Disabilities Act of 1990, as codified, 42 U.S.C. §§ 12112 - 12117 (amended by the ADA Amendments Act of 2008, Pub. L. No. 110-325 and the Civil Rights Act of 1991, Pub. L. No. 102-166).

NOTE: In order to bring suit in federal district court under the Americans with Disabilities Act, you must first obtain a right to sue letter from the Equal Employment Opportunity Commission.

Jurisdiction is specifically conferred upon this United States District Court by the
 aforementioned statutes, as well as 28 U.S.C. §§ 1331, 1343. Jurisdiction may also be
 appropriate under 42 U.S.C. §§ 1981, 1983 and 1985(3), as amended by the Civil Rights Act of
 1991, Pub. L. No. 102-166, and any related claims under New York law.

1. Plaintiff resides at:

219-30 Edgewood Ave
 Springfield Gardens NY 11413

Street Address

QUEENS, NY, 11413, 347-489-9417
 County State Zip Code Telephone Number

2. Defendant(s) resides at, or its business is located at:

Laguardia Airport Hangar 3

Street Address

QUEENS, Flushing, NY, 11371
 County City State Zip Code

3. The address at which I sought employment or was employed by the defendant(s) is:

Laguardia Airport Rm. 121

Street Address

QUEENS, NY, NY, 11371
 County City State Zip Code

4. The discriminatory conduct of which I complain in this action includes
(check only those that apply).

☐ Failure to hire.
☒ Termination of my employment.
☒ Failure to promote.
☐ Failure to accommodate my disability.
☐ Unequal terms and conditions of my employment.
☐ Retaliation
☐ Other acts (specify): _____

NOTE: Only those grounds raised in the charge filed with the Equal Employment Opportunity Commission can be considered by the federal district court.

5. It is my best recollection that the alleged discriminatory acts occurred on:

July 3, 2012, July 30 2012
Date(s)

6. I believe that the defendant(s) (check one)

☒ is still committing these acts against me.
☐ is not still committing these acts against me.

7. Defendant(s) discriminated against me based on my:
(check only those that apply and state the basis for discrimination, for example,
what is your religion, if religious discrimination is alleged)

☒ race _____ ☐ color _____
☐ gender/sex _____ ☐ religion _____
☐ national origin _____
☐ disability _____

☒ age. If age is checked, answer the following:

I was born in 1957. At the time(s) defendant(s) discriminated against me,
Year

I was ☒ more ☐ less than 40 years old. (check one).

NOTE: Only those grounds raised in the charge filed with the Equal Employment Opportunity Commission can be considered by the federal district court.

8. The facts of my case are as follows:

ON JULY 2, 2012 I WAS FUELING AN AIRCRAFT FOR DEPARTURE
THE PLANE CAME IN WITH ALL TANKS IN OPEN POSITION, I CLOSED THE TANKS
AN DIDNT TURN THE SWITCH TO CENTER TANK ONLY, FUEL WENT IN THE
AUXILIARY TANK WHICH CAUSED A DELAY. 3 WHITE EMPLOYEES DID
THE SAME THING AN WASNT DISCIPLINED NOR SUSPENDED. ON JULY 30
TOOK A PRE READING ON A AIRCRAFT WHEN IT CAME IN BUT THE PRE READING
WAS WRONG NOT WHAT THE PILOT SAID IT CAME IN WITH. SO IT WAS
ANOTHER DELAY BECAUSE ONE OF THE LEAD TRUCKS WAS BROKEN
DOWN SO IT TOOK TO LONG TO CORECT THE PAPER WORK.

(Attach additional sheets as necessary)

PLEASE SEE ATTACH SHEETS

NOTE: As additional support for your claim, you may attach to this complaint a copy of the charge filed with the Equal Employment Opportunity Commission, the New York State Division of Human Rights, or the New York City Commission on Human Rights.

9. It is my best recollection that I filed a charge with the New York State Division of Human Rights or the New York City Commission on Human Rights regarding defendant's alleged discriminatory conduct on: _____

Date

10. It is my best recollection that I filed a charge with the Equal Employment Opportunity Commission regarding defendant's alleged discriminatory conduct on: _____

9-9-2012
Date

Only litigants alleging age discrimination must answer Question #11.

11. Since filing my charge of age discrimination with the Equal Employment Opportunity Commission regarding defendant's alleged discriminatory conduct (*check one*):

☐ 60 days or more have elapsed.
☒ less than 60 days have elapsed.

12. The Equal Employment Opportunity Commission (*check one*):

☐ has not issued a Right to Sue letter.
☒ has issued a Right to Sue letter, which I
received on 5-5-13
Date

NOTE: Attach a copy of the Right to Sue Letter from the Equal Employment Opportunity Commission to this complaint.

WHEREFORE, plaintiff prays that the Court grant such relief as may be appropriate, including injunctive orders, damages, pre-judgment interest, costs, and attorney's fees.


PLAINTIFF'S SIGNATURE

Dated: 6-21-13

219-30 EDGEWOOD AVE
Address SPRINGFIELD Gd NY 11413
347-489-9417
Phone Number

Albert Spencer Complaint

I believe that my employer, Servisair, LLC ("Servisair"), unlawfully discriminated against me on the basis of my race and age: I am a 55 year old black male. On or about May 1, 1994, I started working with Hudson General, which is located at La Guardia Airport. (They provide a variety of services for the various airline carriers.) I started as a Ramp Agent where I performed various jobs, such as unloading planes, transporting luggage to terminals, etc. (Hudson General is now known as Servisair). Furthermore, I am a member of the International Association of Machinists and Aerospace Workers ("IAM").

After many years of service, I was promoted to supervisor in the Mail Department but due to cuts in the postal services, I was transferred to the Fueling Department. Thereafter, I started to experience a hostile work environment. As a Fueller, my primary responsibility included driving the fueling truck to the various air carriers (e.g., US Air, JetBlue, Spirit, Delta, etc.) and fueling the planes.

Throughout the years, I noticed that Servisair promoted the young white employees to supervisory positions even though they had less seniority than me. In fact, I trained a number of white employees, who became my supervisor. Moreover, most of the black employees were relegated as fuelers.

On or about June 1, 2012, one of my supervisors, Marc Singh ("Mr. Singh"), was promoted to general manager. Thereafter, he started to discriminate against me in the terms and conditions of employment: 1) he prohibited me from leaving my truck; 2) he made me park my truck in certain places; 3) he micro-managed my work; 4) he required

one of the lead trucks was broken down. Thereafter, Mr. Lalin informed me that I

me to be by the two-way radio at all times, i.e., 24/7; and 5) he assigned me to the most difficult jobs, etc. However, Mr. Singh did not treat the white younger employees (e.g., Robert Feeley, Basbeo Nishan, Tom Doe, etc.) the same way. Moreover, the United States Equal Employment Opportunity Commission ("EEOC") should note that I fueled more planes, per shift, than the younger white employees.

On July 2, 2012, I was fueling an aircraft, for departure, at the U.S. Air terminal. The plane came in with all tanks in open position. As a result, I closed the tanks and began fueling the aircraft but I did not turn the switch to center tank only. As a consequence, the fuel mistakenly went in the auxiliary tank, which posed a slight delay. As a result, on July 3, 2012, the General Manager, Lisa Bravo ("Ms. Bravo") suspended me for three (3) days. The EEOC should note that three (3) young white employees (e.g., Robert Feeley, Basbeo Nishan, John Hamilton, etc.) made the same mistake: However, Servisair neither disciplined nor suspended them.

On July 30, 2012, I was assigned to Delta Airline to fuel another airplane. However, before I began to fuel the airplane, I took a pre-reading of the fuel gauges, which revealed that the airplane had 94 pounds of fuel. However, the pilot informed my supervisor, George Lalin ("Mr. Lalin"), that the airplane only had 84 pounds of fuel. Thereafter, I attempted to correct the paper work. However, there was a delay because one of the lead trucks was broken down. Thereafter, Mr. Lalin informed me that I caused another delay; and he took me to the office. Thereafter, Ms. Bravo terminated my employment. Again, three (3) white employees (e.g., Robert Feeley, Basbeo Nishan, John Hamilton, etc.), caused a similar delay. Yet, Servisair neither suspended nor terminated them. Rather, they were transferred to another department. In fact, one

of the young white fuelers hit a pedestrian with the truck, but he was only suspended for two (2) days. (Servisair would normally terminate an employee if s/he hit a pedestrian.)

More importantly, the EEOC should note that I only got two (2) delays in eighteen (18) years. Nonetheless, Servisair elected to terminate my employment, which is not only discriminatory but also severe, harsh and unconscionable. According to the collective bargaining agreement, it specifically states that "[t]he Company agrees that it will not discriminate against . . . any present employee, because of race, color. . . ." (Interestingly age discrimination is omitted from the collective bargaining agreement.) Nonetheless, Servisair not only breached the collective bargaining agreement and violated the anti-discrimination statutes.



Albert Spencer

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: **Albert Spencer**
219-30 Edgewood Avenue
Springfield Garden, NY 11413

From: **New York District Office**
33 Whitehall Street
5th Floor
New York, NY 10004



On behalf of person(s) aggrieved whose identity is
 CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

846-2012-68929

Thomas Perez,
Investigator

(212) 336-3778

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:



The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.



Your allegations did not involve a disability as defined by the Americans With Disabilities Act.



The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.



Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge



The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.



The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.



Other (briefly state)

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed **WITHIN 90 DAYS** of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission

Kevin J. Berry
Kevin J. Berry,
District Director

4-30-13

Enclosures(s)

(Date Mailed)

cc:

Attn

Director of Human Resources
SERVISAIR FUEL SERVICES
P.O. Box 710096
Flushing, NY 11371